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| EXAMINER |
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SMITH, RUTH S

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| ART UNIT | PAPER NUMBER |
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3737

DATE MAILED: 04/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/024,651

Applicant(s)

RUBINSTENN, GILLES

Examiner

Ruth S. Smith

Art Unit

3737

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 and 52-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,6-12,21,22,24,26-32,41,42,44,46,47,49 and 52-55 is/are rejected.
- 7) ☒ Claim(s) 3,5,13-20,23,25,33-40,43,45,48 and 50 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/22/05.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 2/22/05 has been entered.

Specification

The disclosure is objected to because of the following informalities: The specification fails to include any reference to block 712 seen in figure 7. On page 37, it is unclear as to how the title of a provisional application is in a language other than English. On page 40, reference to attorney docket number should be deleted and the appropriate serial number should be inserted. The claim of priority and the listing of related applications should be inserted on page 1 of the specification. The claim of priority to a provisional application is seen on page 1, therefore the claim of priority and the citation of related applications that begins on page 42 should be moved and/or deleted. Reference to attorney docket numbers should be deleted and the appropriate serial numbers inserted. The definitions provided by applicant should precede the detailed description of the invention in order to allow one to fully understand the disclosure when reading it from the beginning to the end. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2,6,8-12,21,22,26,28-32,41,42,46,47,52,54,55 are rejected under 35 U.S.C. 102(b) as being anticipated by Hillebrand et al. The claims are directly readable on Hillebrand et al in that turning on the monitor for displaying the images taken by the camera results from sending a signal to the monitor (via the power switch) to cause the screen of the display device/ monitor to generate light in a predetermined wavelength. The light will inherently irradiate the body part being imaged by the camera. With regard to claims 11,31, any image can be considered to be a calibrating image to determine if the image capture device is working properly. With respect to claim 55, the light emitted by the display device is not constant over time.

Claims 1,2,4,6,8,10-12,21,22,24,26,28,30-32,41,42,44,46,47,49,52,54,55 are rejected under 35 U.S.C. 102(a) as being anticipated by "EZ200 Digital Camera User's Guide". The claims are directly readable on "EZ200 Digital Camera User's Guide" in that turning on the monitor for displaying the images taken by the camera results from sending a signal to the monitor (via the power switch) to cause the screen of the display device/ monitor to generate light in a predetermined wavelength. The light will inherently irradiate the body part being imaged by the camera. With regard to claims 11,31, any image can be considered to be a calibrating image to determine if the image capture device is working properly. With respect to claim 55, the light emitted by the display device is not constant over time.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4,7,24,27,44,49,53,55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hillebrand et al. Hillebrand et al disclose turning on the monitor for displaying the images taken by the camera which results from sending a signal to the monitor (via the power switch) to cause the screen of the display device/ monitor to generate light in a predetermined wavelength. The light will inherently irradiate the body part being imaged by the camera. It is well known to use artificial intelligence in the processing of images. Therefore, it would have been obvious to one skilled in the art to have modified Hillebrand et al such that it uses AI to process the images. Such a modification merely involves the substitution of one well known type of image processing means for another. With respect to claims 4,24,44,49, Hillebrand et al disclose that the device does not need to be operated in a retail store, therefore, it would have been obvious to one skilled in the art to have allowed one to operate the device alone without the need for an additional person to operate the device. Furthermore, it is well known expedient in the art to provide an instruction manual to allow someone to know how to operate a device. Therefore, it would have been obvious to one skilled in the art to have provided a hard copy instruction manual to the subject allowing them to operate the device on their own. With respect to claim 53, the tool used to gather data would have been an obvious design choice of known equivalents in the absence of any showing of criticality.

Claims 7,27,55 are rejected under 35 U.S.C. 103(a) as being unpatentable over "EZ200 Digital Camera User's Guide". "EZ200 Digital Camera User's Guide" discloses turning on the monitor for displaying the images taken by the camera which results from sending a signal to the monitor (via the power switch) to cause the screen of the display device/ monitor to generate light in a predetermined wavelength. The light will inherently irradiate the body part being imaged by the camera. It is well known to use artificial intelligence in the processing of images. Therefore, it would have been obvious

to one skilled in the art to have modified "EZ200 Digital Camera User's Guide" such that it uses AI to process the images. Such a modification merely involves the substitution of one well known type of image processing means for another.

Allowable Subject Matter

Claims 3,5,13-20,23,25,33-40,43,45,48,50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth S. Smith whose telephone number is 571-272-4745. The examiner can normally be reached on M-F 7:30 AM-4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 571-272-4956. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ruth S. Smith
Primary Examiner
Art Unit 3737